



WEB COPY



W.P.No.29728 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.10.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.29728 of 2024
and
W.M.P.Nos.32385 & 32386 of 2024

M/s.Subbulakshmi Enterprises,
Represented by its Managing Partner,
Mr.Sundarkumar Packirisamy,
No.384B, Thamarai Street,
Sathyamoorthy Nagar Post,
Poompozhil Nagar, Vellanur,
Tiruvallur 600 062.

... Petitioner

Vs.

The Commercial Tax Officer,
Thirumullaivoyal Assessment Circle,
Avadi, Tiruvallur.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 15.11.2023 vide Ref.No.ZD331123085844E in Form GST DRC-07 bearing GSTIN:



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33ACIFS3563J1ZW pertaining to FY 2017-18 issued by the respondent as arbitrary and illegal and quash the same and further direct the respondent to redo the adjudication in accordance with law after granting opportunity of personal hearing to the petitioner.

For Petitioner : Ms.B.Mitra

For Respondent : Mr.G.Nanmaran,
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 15.11.2023 passed by the respondent.

2. Mr.G.Nanmaran, learned Special Government Pleader, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that all notices/communications were uploaded by the respondent under the column, viz., "View Additional Notices and Orders", in the GST portal. Since the petitioner was not aware of the said notices, they failed to file



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their reply within the time. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4. On the other hand, the learned Special Government Pleader appearing for the respondent would submit that the respondent has uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to remit the matter back to the respondent, subject to the payment of 10% of the disputed tax amount by the petitioner.

5. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondent and also perused the materials available on record.



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6. In the case on hand, no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Hence, this Court is of the view that the impugned order was passed in violation of principles of natural justice since it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. In such view of the matter, this Court is inclined to set aside the impugned order dated 15.11.2023 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 15.11.2023 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 10% of disputed tax amount to the respondent within a period of four weeks from today (15.10.2024) and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of receipt of copy of this order.



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(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice, by fixing the date of personal hearing, to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

7. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

15.10.2024

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

nsa

To

The Commercial Tax Officer,
Thirumullaivoyal Assessment Circle,
Avadi, Tiruvallur.



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KRISHNAN RAMASAMY.J.,

nsa

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